

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

HAJI BRELAND,	:	No. 3:23cv1473
	:	
Plaintiff	:	(Judge Munley)
	:	
v.	:	(Magistrate Judge Bloom)
	:	
WILKES BARRE SCHOOL	:	
DISTRICT and	:	
WILKES BARRE POLICE	:	
DEPARTMENT,	:	
	:	
Defendant	:	

ORDER

Before the court for disposition is the Report and Recommendation ("R&R") issued by Magistrate Judge Daryl F. Bloom on November 14, 2023. (Doc. 6). The R&R recommends dismissing the plaintiff's complaint without prejudice so that plaintiff can correct its defects by filing an amended complaint within twenty (20) days of any dismissal order. (Id. at 8).

No objections to the R&R have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is

no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

The R&R indicates that the complaint fails to state a claim upon which relief can be granted because it fails to request any sort of relief. (Doc. 6, R&R at 8). In response to the R&R, instead of objections, the plaintiff filed a document labeled "Amended Complaint". (Doc. 7). The Amended Complaint contains a request for relief including compensatory damages, emotional distress damages, back pay, front pay, the value of lost benefits, punitive damages, costs, attorneys fees and such other relief as may be just, proper, and appropriate. (Doc. 7, Amended Complaint at ¶ 4). Thus, it appears that the Amended Complaint remedies the deficiency noted by the R&R.

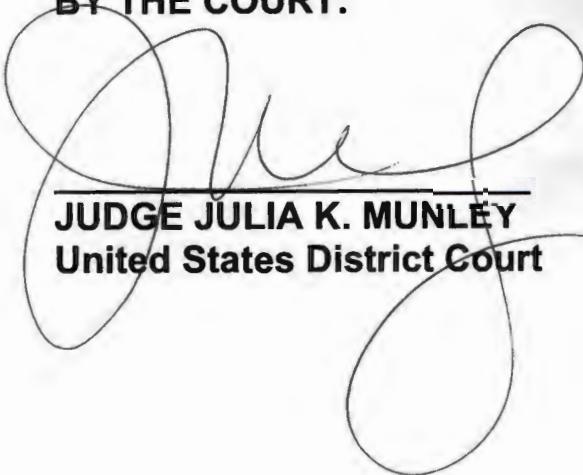
Accordingly, after a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the R&R in part and, it is hereby **ORDERED** as follows:

- 1) Magistrate Judge Bloom's R&R (Doc. 6) is hereby **ADOPTED** with regard to its analysis but the case is not dismissed as it appears that the Amended Complaint addresses the concern raised in the R&R; and
- 2) The Clerk of Court is directed to remand this case to Magistrate Judge Bloom for further proceedings, including any additional review of the Amended Complaint that may be appropriate.

Date:

12-11-23

BY THE COURT:


JUDGE JULIA K. MUNLEY
United States District Court